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OP-

MEMORANDUM FOR: Director of Central Intelligence

FROM: William F. Donnelly
Deputy Director for Administration

SUBJECT: The Proposed "Civil Service Simplification [CSS] Act of 1986"

1. In response to President Reagan's call for a more streamlined and efficient civil service personnel and compensation system, the Office of Personnel Management (OPM) has transmitted to the Congress the subject legislative proposal designed to simplify and improve the current government-wide personnel and pay structure.

2. The legislation would amend Title 5 to authorize establishment of the "Simplified Management System" (SMS), based on the "China Lake" pay banding model and containing four main features:

- Pay Banding. The 18 existing General Schedule (GS) grade levels would be consolidated into pay bands, each of which generally would encompass the pay ranges for two or more GS levels.

- Simplified Classification. Positions would be grouped into occupations based on the kind of work and qualifications required; similar occupations would be grouped into "career paths;" and each "career path" would be assigned a set of pay bands.

- Pay for Performance. Advancement within a pay band would be based on good performance rather than longevity, and poor performers would be denied pay raises.

- Enhanced Recruitment and Retention. When necessary to recruit or retain well-qualified personnel in hard-to-fill occupations, or for remote sites or arduous or undesirable duties, the pay rates within a pay band could be increased, and/or bonuses could be paid to such employees.

Other significant aspects of the proposal are as follows:

- An agency could implement the SMS for all or some of its components, locations, and/or occupations.

- OPM approval for implementation of the SMS in all or part of an agency would be required.

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SUBJECT: The Proposed "Civil Service Simplification [CSS] Act of 1986"

- OPM would establish the career paths and pay bands used, the criteria for assigning positions/occupations to such paths and bands, and the qualification requirements for positions.

- OPM could modify or terminate a noncomplying SMS.

- The SMS would have to be budget-neutral.

- The existing cap on General Schedule pay (i.e., not to exceed Level V of the Executive Schedule, currently $68,700) would be retained.

- This Agency would be exempt as a matter of law from the subject proposal, just as we are exempt from the Classification Act and General Schedule. The Agency, therefore, would not have to follow or implement the CSS Act, but might choose to establish a parallel or similar system under the Agency's Section 8 authorities.

3. OPM's proposal presents both favorable and unfavorable implications for us, given our unique authorities and situation:

- On the plus side, Administration and Congressional support on a government-wide basis for pay banding and pay for performance would reinforce the validity and merit of the steps we already have taken in those directions. Our Office of Communications and secretarial pay experiments would be seen as more in the mainstream and less as deviations from a norm. Enactment of the CSS Act thus could defuse the criticisms of the Secretarial Career System now being voiced by the HPSCI.

- On the minus side, passage of the legislation could limit the Agency's flexibility in the pay and personnel areas, even though legally the Agency would not be bound by the legislation. Probably there would be pressure for the Agency to conform to the general system created by the CSS Act. We finally might achieve our objective of "getting off" the GS system, only to find ourselves mired in the Title 5 SMS. Our ability to implement pay and personnel features different from those in the CSS Act might, for example, be constrained politically, if not legally. We are likely to be asked to ensure that any further banding/pay-for-performance efforts we undertake be cost-neutral, unlike the Commo and secretarial initiatives.

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4. On balance, then, we should support the basic concepts embodied in the CSS Act, which are consonant with those you endorsed in your 23 July testimony before the SSCI on CIA personnel management. But we should not tie ourselves too closely to the CSS Act. Maneuver room is needed so that we can design for our employees a flexible compensation package--of which salary is only one element.

/s/ William F. Donnelly

William F. Donnelly

TRANSMITTAL SLIP	DATE
TO: Executive Registry	
ROOM NO.	BUILDING
REMARKS:	
FROM: OD/PERS	
ROOM NO.	BUILDING / EXTENSION

FORM NO. 241 REPLACES FORM 36-8 WHICH MAY BE USED. (47)
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EXECUTIVE SECRETARIAT
ROUTING SLIP

TO:

		ACTION	INFO	DATE	INITIAL
1	DCI		X 3		
2	DDCI		X 4		
3	EXDIR		X 5		
4	D/ICS				
5	DDI				
6	DDA	X 1			
7	DDO				
8	DDS&T				
9	Chm/NIC				
10	GC				
11	IG				
12	Compt		X 6		
13	D/OLL				
14	D/PAO				
15	D/PERS		X 7		
16	VC/NIC				
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Date

Remarks For your review, comment to DCI and notification/further dissemination as you see fit.

STAT

Executive Secretary
16 July 86
Date

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Executive Registry
86- 3189x

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

Office of the Director

July 10, 1986

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

FROM: CONSTANCE HORNER
DIRECTOR

Constance Horner

SUBJECT: CIVIL SERVICE SIMPLIFICATION ACT OF 1986

I have just transmitted to Congress a legislative proposal, entitled the "Civil Service Simplification Act of 1986." This proposal would implement the President's decision that we move forward to install a reformed personnel system in the Federal Government.

Many of you have told me of your frustration with the current personnel system. We have many exceptionally fine employees in the Government, but the system that has built up over the years to manage this most valuable resource actually seems to work against effective and efficient management, producing and consuming great quantities of paperwork, but little real result. The Navy Department experimented at two laboratories in California with a new approach--often called "China Lake," after the location of one of the laboratories--using simplified approaches to classification, more flexibility in hiring, pay-for-performance, and, most of all, less emphasis on paperwork and form at the expense of substance. The result? Everyone was pleased: the employees, who understood the relationship between what was expected of them and the rewards they would receive, and the managers, who were given the tools to motivate their workers, while finding their supervisory burden much simplified.

After reviewing the results of the "China Lake" experiment, President Reagan decided that we should extend this new way of doing business to the whole Government, in a controlled, measured, and cost-neutral transition. The attached legislative proposal would do this. As is always the case, this sort of fundamental change requires a major educational effort, and we are going to be working with the Congress, Federal managers, employees, and unions to explain the benefits the "Civil Service Simplification Act of 1986" can bring to all of us, and most of all, to the American people we serve. I would very much appreciate any assistance you can bring to this educational campaign. OPM staff and I stand ready to work with you and your staff in any way you would find helpful.

DCI
EXEC
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I guarantee you the results will be worth the effort, for all of us!

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Attachment

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UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

Office of the Director

July 7, 1986

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

The Office of Personnel Management submits herewith a legislative proposal, "To amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes." This proposal would implement the President's decision to expand the personnel system improvements successfully demonstrated at the two Navy laboratories in China Lake and San Diego, California, in a controlled, measured, and budget-neutral manner. We request that the proposal be referred to the appropriate committee for consideration.

The shortcomings of the current General Schedule (GS) are clear. This system, which had its origins more than 60 years ago, stresses administrative procedures at the expense of management flexibility and opportunities to reward employee effort. As a result, four broad areas of dissatisfaction with the current GS system have emerged:

- The hiring system is excessively regulated and time-consuming.
- The compensation system is rigid and often inadequate.
- The performance appraisal system, despite major improvements, still does not sufficiently tie pay to employee performance.
- The job classification system on which it is all based is cumbersome and excessively involved with paperwork.

The Civil Service Reform Act of 1978 provided the legal authority for personnel research programs and demonstration projects to allow for controlled, measured evaluation of new approaches to personnel management. Under this authority, the Office of Personnel Management (OPM) approved a Department of the Navy proposal to experiment with a simplified personnel system at the two laboratories in California.

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The demonstration project personnel system simplifies the cumbersome 18-grade GS system by substituting four to six broad pay bands to provide managerial flexibility. OPM, other observers, the managers who operate the system, and the employees who are under the system all believe that its flexibility has resulted in several distinct advantages:

- The system is market-sensitive, allowing competition for quality personnel in hard-to-fill occupations.

- The system is performance-oriented, allowing the linkage of pay to performance to an extent not possible under the current GS system.

- The system is administratively simple, greatly reducing the effort and costs associated with Federal personnel management.

This simplified system has now been in operation for six years and has involved thousands of employees in a wide variety of occupations. Because of its success, the system has many supporters. For example, the President's Blue Ribbon Commission on Defense Management, headed by David Packard, recommended extension of this "successful system" to acquisition personnel in DOD. Several bills have been introduced in the Congress which would establish personnel systems, inspired to some extent by the Navy project, for other segments of the work force.

While varying in approach, these bills suffer from a common deficiency--they fail to recognize that the Federal Government is a single employer. Consequently, they propose piecemeal solutions to problems that are Governmentwide in scope. By concentrating on problems which have arisen in certain occupational areas, they ignore the disturbances that fragmented approaches to these problems would create. A proliferation of alternative personnel systems could very well lead to inter-agency competition for valuable employees, declining morale and productivity for employees left out of the new systems, and an attendant loss of Federal personnel management integrity and control. On the other hand, there is an equal danger from failure to take action. In the face of a deteriorating situation, further "studies" should not be allowed to delay implementation of an already tested system that has been shown to work. Since authority for personnel research programs and demonstration projects is already established in law, we have sufficient flexibility now to test and evaluate any further innovations in personnel management. We believe that the "Simplified

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Management System" set forth in the enclosed legislative proposal would allow for a careful, budget-neutral expansion of a demonstrated, successful pay-for-performance system.

This proposal would provide the legal authority for a Governmentwide extension of the Simplified Management System. Its chief features would be:

- Pay Banding. The system would consolidate existing grade levels into appropriate pay bands that would generally encompass the pay ranges for two or more grade levels of the General Schedule.

- Simplified Classification. Within the pay bands, the systems would eliminate much of the administrative burden now involved in classification.

- Pay-for-Performance. Progressions within the pay bands would be based more on performance than seniority, with greater rewards for better performers and with the ability to withhold pay raises for those whose performance is less than fully successful.

- Market-Sensitivity. The new system would allow the hiring of new employees within the pay bands at rates more reflective of market conditions, allowing for adequate recruitment of employees in critical, hard-to-fill occupations.

The proposal would leave the current General Schedule in place, permitting its gradual replacement by the new system in careful stages. Agencies would be authorized to implement the new system for the whole agency, or for any component of or occupation in the agency, but only after careful evaluation of whether the agency was ready and able to implement the system properly. Agency use of the system would be carefully monitored to ensure that the system's objectives are met. Agency use of the Simplified Management System could be modified or terminated, and the agency returned to the General Schedule if budget-neutrality is not observed, or the system's objectives are otherwise not met.

Because of the incremental nature of the proposed expansion of the Simplified Management System, we recognize that some immediate relief is needed for those agencies which remain under the General Schedule for the time being, and which experience difficulties in recruiting or retaining employees in hard-to-fill occupations. Therefore, our proposal

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provides for greater flexibilities in the special rate authority under the General Schedule, and provides a new authority for recruitment and retention bonuses.

The Simplified Management System will provide an epochal reform of the Civil Service which will restore the ability of Federal managers to manage, and make it possible for motivated employees to perform to their fullest potential. Under this system the best Federal workers will get paid better and know what's expected of them, while managers will no longer be passive participants in the personnel process. The Administration believes that enactment of this proposal would greatly improve Federal personnel management.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President.

A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely,

Constance Horner

Constance Horner
Director

Enclosures

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A BILL

To amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Service Simplification Act of 1986".

Sec. 2. (a) Title 5, United States Code, is amended by inserting after chapter 51 the following new chapter:

"Chapter 52--Simplified Management System

"Sec.

"5201. Purpose.

"5202. Definitions.

"5203. Implementation.

"5204. Career Paths and Pay Bands.

"5205. Pay-for-Performance Plan.

"5206. Conversion Procedures.

"5207. Evaluation and Oversight.

"5208. Regulations.

"§ 5201. Purpose

"It is the purpose of this chapter to promote better management of the Federal work force by establishing a Simplified Management System that will vest in Federal agencies the authority and responsibility to use flexibilities in assigning rates of basic pay in order to recruit, motivate, and retain a well-qualified work force. The Simplified Management System

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established by this chapter is an alternative to the classification and pay system established under chapter 51, subchapter III of chapter 53, and chapter 54 of this title. The Simplified Management System shall be incrementally expanded throughout the Federal work force in a controlled, measured, and budget-neutral manner.

"§ 5202. Definitions

"For the purposes of this chapter--

"(1) 'agency', 'class', 'grade', and 'position' have the same meanings as provided in section 5102(a) of this title;

"(2) 'budget-neutral' means that the aggregate costs (including administrative costs) directly and indirectly incurred under the Simplified Management System do not exceed the costs which would have been incurred had the Simplified Management System not been implemented;

"(3) 'career path' means a grouping of occupations that are determined by the Office to be sufficiently similar to warrant the assignment of the same set of pay bands;

"(4) 'employee' means an individual employed in or under an agency, but does not include--

"(A) an employee described by section 5102(c) or (d) of this title;

"(B) a member of the Senior Executive Service; or

"(C) an administrative law judge appointed under section 3105 of this title;

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"(5) 'occupation' means a group of positions that are similar as to the kind of work and the kind of qualifications required;

"(6) 'Office' means the Office of Personnel Management; and

"(7) 'pay band' means a range of rates of basic pay encompassing the rates of pay for two or more grades (or, when determined appropriate by the Office in a particular situation, for a single grade) of the General Schedule under section 5332 of this title.

"§5203. Implementation

"(a) Subject to the requirements for approval provided in subsection (c) of this section, the head of an agency may implement the Simplified Management System for the agency, or for any component or location in the agency, or for any occupation or group of occupations within the agency, under a plan established under subsection (b) of this section. Any change in the coverage of the Simplified Management System in the agency, or in the plan, shall be subject to approval under subsection (c) of this section.

"(b) Prior to implementing the Simplified Management System, the head of an agency shall develop and submit for approval, in accordance with subsection (c) of this section, a plan for the operation of the Simplified Management System in the agency, component or location, or occupation or group of occupations affected. The plan shall set forth--

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"(1) the proposed extent of coverage of the Simplified Management System under the plan;

"(2) the means by which the agency will ensure that the Simplified Management System will operate in a budget-neutral manner under the plan;

"(3) any career paths, pay bands, criteria, or qualification requirements proposed for the plan under section 5204(e) of this title;

"(4) the performance appraisal system under the plan, as required by chapter 43 of this title;

"(5) the pay-for-performance plan under section 5205 of this title;

"(6) the merit promotion plan, as required by regulations of the Office under authority of sections 3301 and 3302 of this title;

"(7) procedures for designating individuals for conversion to coverage under the plan, as required by section 5206(c) of this title; and

"(8) any other information required by the Office, including any required plans for evaluating the operation of the Simplified Management System.

"(c)(1) The President, or his designee, shall review each plan submitted by the head of an agency under subsection (b) of this section with respect to the adequacy of those provisions of the plan described in paragraph (2) of subsection (b), and shall approve the plan if he determines such provisions are adequate to

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ensure that the Simplified Management System will operate under the plan in a budget-neutral manner.

"(2) The Office shall review each plan submitted by the head of an agency under subsection (b) of this section with respect to the adequacy of those provisions of the plan described in paragraphs (1) and (3) through (8) of subsection (b), and shall approve the plan if the Office determines that such provisions comply with the provisions of this chapter and any regulations and criteria prescribed by the Office pursuant to this chapter, and that the Simplified Management System will operate under the plan in a manner that will accomplish the purpose of this chapter.

"(3) An agency plan for operation of the Simplified Management System must be approved under both paragraph (1) and paragraph (2) of this subsection before the agency may implement the Simplified Management System.

"(d) Notwithstanding any other provision of law, the coverage of an employee's position under the Simplified Management System shall not be subject to review or appeal, except as may be provided by the Office in its sole discretion.

"§5204. Career Paths and Pay Bands

"(a) The Office shall establish career paths and pay bands to be used by agencies which implement the Simplified Management System.

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"(b) The Office, after consulting the agencies, shall develop and publish criteria, in such form as the Office may determine, which agencies shall follow for placing positions included in the Simplified Management System in the career paths and pay bands that are established by the Office. To accomplish the purposes of this chapter, the Office may issue criteria which are derived from standards published under chapter 51 of this title, if such criteria provide for the grouping of classes of positions into career paths, and the consolidation of grades into pay bands.

"(c) Except as provided in subsection (e)(2), each agency shall assign positions under the Simplified Management System to career paths and pay bands on the basis of the criteria issued by the Office.

"(d) Except as provided in subsection (e)(2), the determination of the basic qualifications of individuals for positions under the Simplified Management System, in each career path and in each pay band, shall utilize qualification standards issued by the Office for positions under chapter 51 of this title, including subsequent changes or additions to those standards, or criteria developed and applied specifically for positions under the Simplified Management System. The determination of what standards or criteria to utilize shall be at the sole discretion of the Office.

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"(e) When the Office determines that the career paths, pay bands, or criteria developed under subsection (a) or (b) of this section or the qualification requirements described in subsection (d) of this section are not appropriate to accomplish the purposes of this chapter for a particular agency, a component or location of an agency, or an occupation or group of occupations, the Office may, in its sole discretion--

"(1) develop career paths, pay bands, criteria, or qualification requirements for the agency, component or location, or occupation or group of occupations; or

"(2) authorize an agency to develop and submit to the Office for approval, proposed career paths, pay bands, criteria, or qualification requirements to accomplish the purposes of this chapter.

"(f) The minimum rate of basic pay for the Simplified Management System shall be the minimum rate for GS-1 under section 5332 of this title, and the maximum rate of basic pay shall be the rate payable for GS-18 under section 5308 of this title. The range of rates of pay for any given pay band shall be equivalent to the range of rates of basic pay for one or more grade levels of the General Schedule under section 5332 of this title, and shall be adjusted to maintain such equivalency whenever the rates of pay of the General Schedule are adjusted under section 5305 of this title.

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"(g) An individual shall be initially appointed as an employee under the Simplified Management System at the lowest rate in the applicable pay band that the agency determines, on the basis of the individual's qualifications and labor market conditions, is sufficient to recruit the individual.

"(h) When an agency determines that the recruitment or retention of well-qualified employees under the Simplified Management System is, or is likely to become, seriously handicapped by higher pay rates paid by Federal or non-Federal employers, or by undesirable working conditions, or a remote geographical location, the agency may--

"(1) increase pay rates within the pay band by an amount sufficient to recruit or retain such employees;

"(2) submit a request, if the maximum rate of the pay band is not sufficient to recruit or retain such employees, for approval of an increase of the pay band by an amount sufficient to recruit or retain the employees, except that--

"(i) such an increase in a pay band may not exceed twice the difference between the minimum and maximum rate of basic pay for the highest grade of the General Schedule encompassed by the pay band; and

"(ii) no pay band may exceed the maximum rate payable under section 5308 of this title; or

"(3) pay bonuses to such employees, either in lieu of establishing higher rates of pay under this subsection or in

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addition to such higher rates of pay, as appropriate, subject to the conditions specified in section 5303(b)(2)-(5) of this title.

The authority to approve or disapprove a request under paragraph (2) of this subsection shall be exercised by the President, or, in the event the President has authorized the Office to exercise the authority conferred on him by section 5303 of this title, by the Office.

"(i) An employee whose rate of basic pay falls below the minimum for the employee's pay band because of a failure to receive pay increases due to performance shall be placed in the next lower pay band, unless such action would place the employee in a pay band below the minimum pay band specified for the employee's career path. An employee who is placed in a lower pay band under this subsection shall not have his rate of basic pay reduced as a result of such placement.

"(j) For the purposes of section 5941 of this title, rates of basic pay fixed under this chapter shall be considered rates of basic pay fixed by statute.

"(k) The Office shall prescribe regulations to provide linkages between pay bands established under this chapter and General Schedule grade levels and rates of basic pay for purposes of administering chapter 55 of this title and any other provision of law or regulation.

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"§ 5205. Pay-for-Performance Plan

"(a) Each agency which implements the Simplified Management System shall prepare a pay-for-performance plan, which shall be subject to the approval of the Office, and which shall include--

"(1) a method for determining progression within a pay band which (except as provided by section 5204(h)) shall be based on performance as determined by the performance appraisal system and which may take into account relative position in the range of rates of basic pay for the pay band;

"(2) an incentive and performance awards system which meets the requirements of chapter 45 of this title; and

"(3) a method to be used to determine the funds available to the agency for incentive awards, performance awards, and advancement of employees within the pay bands.

"(b) The Office shall prescribe regulations governing the application of a pay-for-performance plan in the case of an employee for whom a determination under section 4302 of this title for the latest appraisal period is not available.

"§ 5206. Conversion Procedures

"(a) The Office shall prescribe regulations governing the procedures to be used--

"(1) to convert individuals to coverage under the Simplified Management System;

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"(2) to appoint individuals to coverage under the Simplified Management System from other Federal pay systems, or from the Simplified Management System in other components or locations of the agency or another agency; and

"(3) to terminate the Simplified Management System in an agency, or component or location thereof, or for an occupation or group of occupations in an agency, if the Simplified Management System is terminated under section 5207 of this title.

"(b) The Office may provide for restrictions on increases in rates of basic pay as appropriate for individuals who are appointed to positions under the Simplified Management System in an agency from another Federal pay system, or from the Simplified Management System in another agency.

"(c) Each agency which implements the Simplified Management System shall specify procedures for designating individuals for conversion to coverage under the Simplified Management System. Such procedures shall provide for written notification of conversion to each individual serving in a position at the time it is identified for conversion to the Simplified Management System. A conversion to coverage under the Simplified Management System shall be accomplished with no reduction in the rate of basic pay of the individual.

"§ 5207. Evaluation and Oversight

"(a) The President, or his designee, shall review the operation of the Simplified Management System in each agency to

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ensure that such System is operating in a budget-neutral manner. The President, or his designee, may require the agency to modify or terminate use of the Simplified Management System if he determines that it is not so operating.

"(b)(1) In addition to the review required under subsection (a) of this section, the Office shall monitor and evaluate the operation of the Simplified Management System in each agency to ensure compliance with the requirements of this chapter and other applicable laws, rules, and regulations.

"(2) If at any time the Office determines that the Simplified Management System in an agency, or a component or location thereof, or for an occupation or group of occupations in an agency, is not operating in compliance with the provisions of this chapter, or the regulations and approved plan under this chapter, the Office may require modification or termination of the use of the Simplified Management System.

"(c) An employee may request at any time that the Office--

"(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of the employee's position;

"(2) decide whether the employee's position is in its appropriate career path and pay band; and

"(3) change a position from one career path or pay band to another career path or pay band when the facts warrant.

A decision made by the Office on the basis of an employee's request under this subsection is binding on the employing agency

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and is not subject to appeal or review by any other entity.

"§ 5208. Regulations

"The Office shall prescribe regulations to carry out this chapter.".

(b) The table of chapters for part III of title 5, United States Code, is amended by adding after the item relating to chapter 51 the following new item:

"52--Simplified Management System_ _ _ _ _ _ _ _ _ _ _ _ _ _ _5201".

CONFORMING AMENDMENTS

Sec. 3. Title 5, United States Code is further amended--

(1) in section 4302 by adding at the end thereof the following new subsection:

"(c) For the purposes of this chapter, a reduction to a lower pay band of an employee assigned to a position under the Simplified Management System under chapter 52 of this title shall be considered a reduction in grade, except as provided in section 4303(f)(4) of this chapter.";

(2) in section 4303(f)--

(A) in paragraph (2) by striking out "or" at the end thereof;

(B) in paragraph (3) by striking out the period at the end thereof and inserting in lieu thereof ", or"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the reduction to a lower pay band of an employee under chapter 52 of this title who falls below the minimum

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rate of the pay band by failing to receive a pay increase as specified in section 5204(i) of this title.";

(3) in chapter 45--

(A) by adding the following new section after section 4507:

"§ 4508. Performance awards for employees under the Simplified Management System

"An agency may pay a performance award to an employee covered under the Simplified Management System under chapter 52 of this title, under a pay-for-performance plan approved under section 5205 of this title. Such a performance award shall be related to the employee's performance as rated under a performance appraisal system, and shall be considered a cash award for purposes of this chapter.";

(B) the analysis for chapter 45 is amended by inserting after the item relating to section 4507 the following new item:

"4508. Performance awards for employees under the Simplified Management System.";

(4) in section 5102 by adding at the end thereof the following new subsection:

"(e) This chapter does not apply to an employee who is covered under the Simplified Management System under chapter 52 of this title.";

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(5) in section 5363 by adding at the end thereof the following new subsection:

"(d) For an individual covered under the Simplified Management System under chapter 52 of this title, pay retention may be provided, under regulations prescribed by the Office of Personnel Management, when an individual's rate of basic pay is reduced, and the reduction is not the result of action initiated by the individual and is not based on the conduct or unacceptable performance of the individual.";

(6) in section 5948--

(A) in subparagraph (g)(1)(H) by striking out "or" at the end thereof;

(B) in subparagraph (g)(1)(I) by striking out "and" and inserting in lieu thereof "or";

(C) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(J) chapter 52 of this title, relating to the Simplified Management System; and";

(7) in section 7103(a)(14)(B) by striking out "; or" at the end thereof and inserting in lieu thereof ", including the assignment of a position to a career path or pay band under chapter 52 of this title, and the method for determining progression of an employee within a pay band; or";

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(8) in section 7106--

(A) in subparagraph (a)(2)(C)(ii) by striking out at the end thereof "and";

(B) in subparagraph (a)(2)(D) by striking out the period at the end thereof and inserting at the end thereof "; and";

(C) by adding at the end of paragraph (a)(2) the following new paragraph:

"(E) to place positions under the Simplified Management System or to convert employees to or from the Simplified Management System under chapter 52 of this title.";

(9) in section 7121(c)--

(A) in paragraph (4) by striking out "or" at the end thereof;

(B) in paragraph (5) by striking out the period at the end thereof and inserting in lieu thereof "; or";

(C) by adding at the end thereof the following new paragraph:

"(6) The assignment of a position to a career path or pay band under the Simplified Management System under chapter 52 of this title (unless such assignment results in the reduction to a lower pay band, or a reduction in basic pay for an employee, and the reduction is not caused by a performance deficiency as specified in section 5204(i) of this chapter) or the method for determining progression of an employee within a pay band.";

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(10) in section 7511(a)(3) by striking out the semicolon at the end thereof and inserting in lieu thereof ", or a pay band under the Simplified Management System established under chapter 52 of this title;";

(11) in section 7512--

(A) in paragraph (4) by striking out "and" at the end thereof;

(B) in paragraph (5) by adding at the end thereof "and";

(C) by adding as a new paragraph the following:

"(6) a reduction to a lower the pay band of an employee assigned to the Simplified Management System under chapter 52 of this title;";

(D) in paragraph (D) by striking out "or" at the end thereof;

(E) in paragraph (E) by striking out the period at the end thereof and inserting in lieu thereof ", or"; and

(F) by adding at the end thereof the following new paragraph:

"(F) the reduction to a lower pay band of an employee assigned to the Simplified Management System under chapter 52 of this title who falls below the minimum rate of the pay band by failure to receive a pay increase as specified in section 5204(i) of this title.";

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SPECIAL RATES AMENDMENTS FOR GENERAL SCHEDULE EMPLOYEES

Sec. 4. (a) Section 5303 of title 5, United States Code, is amended--

(1) in subsection (a)--

(A) by striking out "pay rates in private enterprise for one or more occupations in one or more areas or locations are so substantially above the pay rates of statutory pay schedules as to handicap significantly the";

(B) by striking out "he may establish for the areas" and inserting in lieu thereof the following: "is, or is likely to become, significantly handicapped by higher pay rates paid by Federal or non-Federal employers, or by undesirable working conditions or the remote geographic location of such positions, he may establish, as appropriate, for one or more areas"; and

(C) in the second sentence--

(i) by striking out "maximum" and inserting in lieu thereof "minimum"; and

(ii) by adding after "level" the following: "by more than twice the amount by which the maximum rate of pay for that grade or level exceeds the minimum rate of pay for that grade or level.

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The President may authorize the appointment of an individual who would be covered by higher rates established under this section at a rate above the higher minimum rate so established"; and

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) When the President makes a finding under subsection (a) of this section, he may pay bonuses to individuals in positions covered by such finding, either in lieu of establishing higher rates of pay under that subsection or in addition to such higher rates of pay, as appropriate.

"(2) A bonus under this subsection may, as appropriate, be provided under a service agreement between the head of an agency and the individual, requiring the individual to complete a specified period of service in return for such bonus, but not over two years of service may be required under a single such agreement, subject to regulations prescribed by the President. An individual who does not complete the specified period of service shall repay the amount of the bonus unless--

"(A) the period of service is not completed by reason of the death or disability of the individual; or

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"(B) the head of the agency determines, pursuant to regulations prescribed by the President, that such failure to complete the specified period of service is for the convenience of the Government,

"(3) A bonus paid under this subsection may not be considered as basic pay for the purposes of subchapter V, subchapter VI or section 5595 of chapter 55, chapter 81, 83, or 87 of this title, or other benefits or entitlements related to basic pay.

"(4) A bonus under this subsection may be paid in a lump sum or in two or more separate payments.

"(5) The sum of the basic pay and a bonus under this subsection paid to an individual in any 12-month period may not exceed the amount of basic pay payable to an individual in a position in level V of the Executive Schedule during the same 12-month period.

"(6) The President may authorize the exercise of the authority conferred on him by this subsection by the Office of Personnel Management or, in the case of individuals not subject to the provisions of this title governing appointment in the competitive service, by such other other agency as he may designate.".

(b) Section 5333(a) of title 5, United States Code, is amended in the second sentence--

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(1) by inserting after "case" the following, "(except to the extent that authority for such approval is delegated under section 1104 of this title)"; and

(2) by striking out "to a position in GS-11 or above".

Sec. 5. The amendments made by sections 2, 3, and 4 of this Act shall be effective on October 1, 1986.

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SECTION-BY-SECTION ANALYSIS

To accompany a draft bill

"To amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes."

Section 1. Short Title

The first section of the bill provides a title, the "Civil Service Simplification Act of 1986."

Section 2. Chapter 52

The second section of the bill amends title 5, United States Code, by inserting a new chapter 52, "Simplified Management System."

Section 5201. Purpose

The first section of chapter 52 explains the purpose of the Simplified Management System, which is modelled on the successful personnel management demonstration projects conducted at two Navy laboratories in China Lake and San Diego, California. The Simplified Management System will be expanded Governmentwide in a controlled, measured, and budget-neutral manner.

Section 5202. Definitions

This section defines the terms used in the Simplified Management System, and specifies that the coverage of the System may include any employee whose position would otherwise be in grades GS-1 through GS-18 of the General Schedule. The System would not include members of the SES, administrative law judges, and prevailing rate employees.

Section 5203. Implementation

Subsection (a) provides authority for the head of an agency to implement the Simplified Management System and to determine coverage of the System within the agency. This subsection also provides that the Simplified Management System may only be implemented with the approval of the President, or his designee, and that, once approved, changes in coverage of the System, or in the plan implementing the System, must be approved by the President or his designee.

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Subsection (b) specifies the requirements of the Simplified Management System plan that must be approved before an agency may implement the System. The plan must include: the proposed extent of coverage; the means for assuring budget-neutrality; any career paths, pay bands, criteria or qualification requirements proposed under section 5204(e); the performance appraisal system; the pay-for-performance plan; the merit promotion plan; the conversion procedures; and the evaluation plan.

Subsection (c) provides that the President, or his designee, shall review each Simplified Management System Plan submitted for approval and shall approve the plan if he determines that the System will operate under the plan in a budget-neutral manner. The Office of Personnel Management (OPM) shall review and approve the plan if it determines that the plan complies with the legal and regulatory provisions of the Simplified Management System and will operate in a manner that will accomplish the purposes of the System. An agency may not implement the System unless its plan is approved for budget-neutrality by the President, or his designee, and unless the other required provisions of the plan are approved by OPM.

Subsection (d) provides that coverage under the Simplified Management System may not be appealed or reviewed, unless so provided by OPM.

Section 5204. Career Paths and Pay Bands

Subsection (a) provides that the career paths and pay bands for the Simplified Management System will be established by OPM.

Subsection (b) requires OPM to publish the criteria for placing positions in the Simplified Management System into the appropriate career paths and pay bands. OPM may use standards developed under the General Schedule to define criteria for the Simplified Management System, as long as the criteria define career paths and pay bands under the Simplified Management System. This provision will allow for a quick implementation of a simplified position classification system, which is one of the key features of the Simplified Management System.

Subsection (c) provides that, with the exception specified in subsection (e)(2), agencies will determine career paths and pay bands on the basis of criteria issued by OPM.

Subsection (d) provides that, with the exception specified in subsection (e)(2), qualification determinations will be made on the basis of existing qualification standards

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published by OPM, including subsequent changes or additions to those standards. OPM will have sole discretion to determine whether to use existing standards, or whether to develop new ones.

Subsection (e) allows the tailoring of career paths, pay bands, criteria, or qualification requirements to specific problem areas in two situations: (1) when OPM determines that the regular Governmentwide career paths, pay bands, criteria, or qualification requirements are not accomplishing the purposes of the Simplified Management System in a given instance, it may develop individual career paths, pay bands, criteria, or qualification requirements for that situation; or (2) OPM may authorize an agency to develop proposed career paths, pay bands, criteria, or qualification requirements which must be submitted to OPM for approval.

Subsection (f) provides that the minimum and maximum rates of basic pay under the Simplified Management System will be the same as those payable under the General Schedule, and that pay bands will have the same range of basic pay as one or more grades of the General Schedule. This subsection also provides that the range of rates of pay bands shall be adjusted to maintain equivalency with the General Schedule whenever the General Schedule receives a comparability adjustment.

Subsection (g) requires agencies to initially appoint an individual to the Simplified Management System at the lowest rate in a pay band which the agency determines is necessary to recruit the individual, based on the individual's qualifications and labor market conditions.

Subsection (h) provides a "special rate" and a bonus authority under the Simplified Management System to provide additional agency flexibility in recruiting and retaining employees in hard-to-fill occupations. Paragraph (1) allows agencies to adjust pay rates within pay bands by the amount necessary to recruit or retain employees. Paragraph (2) allows agencies to request increases to the maximum rate of an approved pay band, if the range of the pay band is not sufficient to recruit or retain well-qualified employees. Such requests for special rates must be submitted to the President, or to OPM if the President's authority to set General Schedule special rates under section 5303 of title 5 is delegated to OPM, for approval. Special rates are limited to a maximum rate which does not exceed the maximum rate of the pay band by an amount equivalent to twice the range of the highest General Schedule grade encompassed by the pay band, and may not exceed the rate of basic pay payable for level V of the Executive Schedule. Paragraph (3) allows for the payment of bonuses to recruit or retain

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employees for hard-to-fill positions, under the same restrictions as will apply to General Schedule employees. A bonus could be paid under an agreement between the employee and the agency requiring the employee to perform a specified period of service in return for the bonus, but not over two years of service could be required under a single agreement. An employee who does not complete the specified period of service would have to repay the amount of the bonus, unless the service is not completed because of death or disablity, or the head of the agency determines that an employee's failure to complete the service is for the convenience of the Government. In any 12-month period, the combination of basic pay and a bonus could not exceed the basic pay payable to an individual in a position in level V of the Executive Schedule for the same 12-month period. A bonus would not be part of basic pay for the purpose of any benefit related to basic pay.

Subsection (i) provides that an employee who fails to receive pay increases because of less than fully successful performance and who drops below the minimum rate of pay for the pay band will be placed in the next lower pay band, unless the employee is already at the minimum pay band of the career path. A reduction of a pay band under this provision will be conducted without reducing the employee's rate of basic of pay.

Subsection (j) continues the existing authority for payment of a cost-of-living allowance and, if applicable, post differential to employees under the Simplified Management System stationed in areas and possessions of the United States outside the 48 coterminous States.

Subsection (k) provides the Office of Personnel Management the authority to prescribe regulations which establish linkages between pay bands and General Schedule grade levels for purposes of administering the premium pay provisions and other provisions of title 5, United States Code, and any other provisions of law or regulation which are linked to the General Schedule.

Section 5205. Pay-for-Performance Plan

Subsection (a) specifies the requirements for the pay-for-performance plan which must be submitted to OPM for approval by each agency implementing the Simplified Management System. The plan must comply with the performance appraisal requirements of chapter 43 and the incentive and performance awards provisions of chapter 45 of this title. In addition, the plan must specify the method to be used to advance employees through the pay band. The method must be based on

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the employee's performance and may not depend on length of service, though it may consider an employee's relative position in the range of rates of basic pay for a pay band in determining the rate of progression through the band. The plan must also specify the method the agency will use to determine the funds available to the agency for incentive awards, performance awards, and for providing pay increases to employees.

Subsection (b) requires OPM to prescribe regulations for administering the pay-for-performance plan for employees who have not received a performance rating under an approved performance appraisal system.

Section 5206. Conversion Procedures

Subsection (a) requires OPM to prescribe regulations governing the procedures to be used in converting employees to the Simplified Management System; appointing employees into the Simplified Management System; and terminating the Simplified Management System.

Subsection (b) authorizes OPM to provide restrictions on pay increases for employees who are appointed into the Simplified Management System from other agencies. The purpose of this provision is to ensure that agencies do not escalate salaries when competing among themselves for valuable employees.

Subsection (c) requires agencies to specify procedures for designating employees for conversion to the Simplified Management System. These procedures must provide for written notification to employees who will be converted. Conversions to the Simplified Management System must be accomplished without a reduction of basic pay of the converted employee.

Section 5207. Evaluation and Oversight

Subsection (a) requires the President, or his designee, to review the operation of the Simplified Management System to ensure budget-neutrality. The President, or his designee, may require an agency to modify or terminate use of the System if it is not operating in a budget-neutral manner.

Subsection (b) provides that OPM shall have an active responsibility for monitoring and evaluating the Simplified Management System to ensure compliance with applicable laws, rules, and regulations. It also authorizes OPM to modify or terminate any use of the Simplified Management System if it determines that the System is not being implemented in compliance with applicable laws, rules, or regulations, or

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is not being implemented in a manner consistent with the purposes of the Simplified Management System.

Subsection (c) establishes an administrative appeals procedure which allows an employee to request a decision from OPM as to whether the employee's career path and pay band are appropriate under the Simplified Management System. A final OPM determination under this procedure is binding on the employing agency, and may not be appealed, or reviewed by any party.

Section 5208. Regulations

This section authorizes OPM to provide regulations to carry out the Simplified Management System.

Section 3. Conforming Amendments

Paragraph (1) provides that reductions in pay bands are generally treated as reductions in grade for purposes of the performance appraisal provisions of chapter 43 of title 5, United States Code.

Paragraph (2) has the effect of excluding reductions to a lower pay band which result from poor performance from the notice requirements of 5 U.S.C. 4303(b), and also provides that such reductions are not appealable to the Merit Systems Protection Board.

Paragraph (3) adds a section to subchapter I of chapter 45 of title 5, Unites States Code, to provide a specific authority for performance awards for employees under the Simplified Management System which are linked directly to an employee's performance rating. Performance awards will be treated as cash awards for purposes of chapter 45.

Paragraph (4) excludes employees under the Simplified Management System from the General Schedule.

Paragraph (5) provides authority for pay retention, under OPM regulations, for reductions in pay of employees in the Simplified Management System. Pay retention is appropriate only for involuntary reductions which do not result from poor performance and which are not based on the conduct of the employee.

Paragraph (6) extends the physicians comparability allowances provisions under 5 U.S.C. 5948 to appropriate employees under the Simplified Management System.

Paragraph (7) excludes the assignment of a position to career path or pay band from "conditions of employment" for

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purposes of labor-management relations. In effect, such decisions are to be treated as classification decisions for labor-management purposes. This paragraph also provides that the method for determining progression within a pay band is not a condition of employment.

Paragraph (8) provides that the decision to place positions under the Simplified Management System or to convert employees to or from the system is a management right and may not be abridged by any labor-management provision.

Paragraph (9) provides that employees under the Simplified Management System may not pursue a grievance through a negotiated grievance procedure concerning the placement in a career path or pay band, unless the placement results in a reduction to a lower pay band or a reduction in pay and the reduction is not a result of failure to receive pay increases because of poor performance. This paragraph also provides that the method for determining progression within a pay band is also not grievable.

Paragraph (10) establishes "pay band" as an equivalent to "grade" for adverse action purposes.

Paragraph (11) provides that reductions of employees to lower pay bands are covered by the adverse action procedures of subchapter II of chapter 75 of title 5, United States Code, except that reductions of employees to lower pay bands caused by failure to receive pay increases because of poor performance are excluded from these procedures.

Section 4. Special Rates Amendments for General Schedule Employees

This section expands flexibilities available for the recruitment and retention of employees who remain under the General Schedule or who are paid under certain other white-collar pay systems. These flexibilities will allow agencies to address critical recruitment and retention problems prior to conversion to the Simplified Management System. This section would broaden the current authority for special rates of pay when the Government experiences difficulty in recruiting or retaining well-qualified employees due to higher pay rates paid by Federal or non-Federal employers. The proposal would allow such special rates in a greater variety of circumstances, increase the available rate range for such special rates when necessary, and permit the hiring of individuals covered by special rates at a rate above the minimum of the special rate range. In addition, the proposal would permit recruitment or retention bonuses, either in lieu of or in conjunction with special rates.

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Subsection (a)(1) amends section 5303 of title 5, United States Code, which allows the President to establish special rates of pay for certain white-collar Federal employees when private sector pay for an occupation is so substantially above the Government's pay rates that the Government's recruitment or retention of well-qualified individuals in the occupation is significantly handicapped. The amendments broaden the authority to also allow special rates where the cause of the significant recruitment or retention problem is higher pay of Federal or non-Federal employers, undesirable working conditions of the Federal job, or the remote geographic location of the Federal job. Under the amendments, special rates could be established when any of these conditions is likely to cause a significant recruitment or retention problem, even if the problem has not yet fully materialized. In addition, the amendments increase the pay range available for fixing needed special rates. The current authority limits the special rate minimum to no more than the maximum--step 10--of the regular rate range. The amendments permit higher special rates, up to an additional width of the rate range, so that the special rate minimum may not exceed the regular step 1 by more than twice the amount by which the regular step 10 exceeds the regular step 1. Further, the amendments would allow the hiring of individuals who would be covered by a special rate range at a rate above the minimum rate of the special rate range, as needed to help resolve the recruitment or retention problem.

Paragraph (2) of subsection (a) redesignates current subsections (b), (c), and (d) of section 5303 as subsections (c), (d), and (e), respectively, and inserts a new subsection (b), concerning bonuses for recruitment and retention. Under the new subsection (b), whenever the President finds that there is a significant recruitment and retention problem, he may provide for bonuses for individuals in affected positions, to be paid either instead of establishing special rates of pay or in addition to special rates of pay, as appropriate. A bonus could be paid under an agreement between the individual and the agency requiring the individual to perform a specified period of service in return for the bonus, but not over two years of service could be required under a single agreement. An individual who does not complete the specified period of service would have to repay the amount of the bonus, unless the service is not completed because of death or disability, or the head of the agency determines that an employee's failure to complete the service is for the convenience of the Government. In any 12-month period, the combination of basic pay and a bonus could not exceed the basic pay payable to an individual in a position in level V of the Executive Schedule for the same 12-month period. A bonus would not be

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a part of basic pay for the purpose of any benefit related to basic pay.

The President could delegate the responsibility for administering this new program of bonuses to the Office of Personnel Management, or to a different agency in the case of individuals not appointed in the competitive service.

Subsection (b) amends section 5333(a) of title 5, United States Code, which allows the hiring of an individual at a within-grade rate above the minimum rate of the grade based on such factors as the individual's unusually high or unique qualifications. The amendment removes the limitation of this authority under current law to only those positions at GS-11 and higher grades, so that the authority could be used at any grade level as appropriate for a qualifying individual. The amendment also makes a conforming change to reflect that the authority to approve the hiring of individuals at advanced within-grade rates may be delegated by OPM to the head of an agency under section 1104 of title 5, United States Code.

Section 5. Effective Date

This section makes the amendments to law authorizing implementation of the Simplified Management System and amending the General Schedule special rates authority effective on October 1, 1986.

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